

AO 91 (Rev. 08/09) Criminal Complaint

Clerk, U.S. District Court
Southern District of Texas
FILED

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

JUN 11 2015

David J. Bradley, Clerk of Court

United States of America

v.

Marcos GARCIA

Case No.

C-15-736M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 5, 2014 in the county of Brooks in the
Southern District of Texas, the defendant(s) violated:

Code Section

Title 21 USC 841
Title 21 USC 846

Offense Description

did knowingly and intentionally possess with intend to distribute, more than 5 kilograms of cocaine, to wit: approximately 42.52 kilograms (gross weight) of cocaine, a Schedule II Controlled Substance and did knowingly and intentionally conspire and agree together and with each other: to possess with intent to distribute a controlled substance, that is approximately 42.52 kilograms of cocaine, a Schedule II Controlled Substance.

This criminal complaint is based on these facts:

See Attached Affidavit of HSI Special Agent

☒ Continued on the attached sheet.

Complainant's signature

Kevin Burgin Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 06/11/2015

City and state: Corpus Christi, Texas

Judge's signature

Jason B. Libby U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

On September 5, 2014, at approximately 0030 AM, a white Freightliner, bearing license 1F06370 (Texas), being driven by Ruben ROMAN and pulling a refrigerated trailer bearing license 1799590 (Maine) arrived at the United States Border Patrol (USBP) Checkpoint south of Falfurrias, Texas. During the Immigration Inspection conducted by USBP Agent Paulino Munoz, USBP Agent Daniel Cancino and his canine partner "Linda-E" conducted a non-intrusive free air sniff of the Freightliner's exterior.

The Freightliner's driver, later identified as Ruben ROMAN, was asked if he was a United States citizen and answered, "Oh, yes sir, yes sir!" The Freightliner's passenger, later identified as Maria Estela GARCIA-Bautista, was asked if she was a United States citizen and she answered, "No, resident". When asked what he was hauling ROMAN answered, "Oh sir, I don't know, sir" in an enthusiastic and rapid manner. Agent Munoz asked ROMAN for his Bill of Lading and he handed Agent Munoz his driver's logbook. After informing ROMAN that was not the Bill of Lading, ROMAN reached inside of an upper area of the Freightliner and handed Agent Munoz the Bill of Lading.

When asked at what time he had loaded the trailer, ROMAN answered "Around 6 or 7, but I went to a football game after I loaded up". ROMAN was asked where was the tractor and trailer parked during the football game to which ROMAN answered "There at my house".

During questioning Agent Cancino and his canine partner were performing a non-intrusive free air sniff of the trailer's exterior and Agent Cancino informed Agent Munoz, USBP canine Linda-E had alerted to the trailer and to refer ROMAN to secondary inspection.

In secondary inspection ROMAN and GARCIA-Bautista were asked to exit the Freightliner and ROMAN was asked if anyone else inside and responded, "No". Agent Cancino then conducted a second non-intrusive free air sniff of the trailer's exterior, with canine Linda-E again alerting to the trailer.

USBP Agent Gonzalez then performed a scan of the tractor and trailer utilizing the ZBF Backscatter X-Ray vehicle. Upon Agent Gonzalez seeing the image of several subjects in the trailer agents opened up the trailer, which had been sealed and locked, and found a total of 15 individuals, all of whom were later determined to be unlawfully present in the United States. Upon discovery of the aliens, ROMAN and GARCIA-Bautista were placed under arrest and escorted inside the checkpoint for processing and interviews.

Subsequent to the aliens' discovery, the trailer, a white 2000 Great Dane 53 foot refrigerated trailer, displaying Maine license plate 1799590 was searched for concealed cocaine. Before the trailers arrival at the Falfurrias checkpoint, an anonymous source telephonically contacted USBP agents and claimed the trailer contained cocaine. A search of the trailer for secreted narcotics was negative.

Both ROMAN and GARCIA-Bautista were given their Miranda Rights in the language of their choosing (English) by Agent Munoz with Agent Andrew Flores present as a witness.

Both ROMAN and GARCIA-Bautista signed a written waiver of their rights indicating they understood their rights and indicated they would answer agent's questions, without the presence of attorneys.

Under questioning of USBP agents ROMAN made the following statements:

- He did not possess a Commercial Driver's License to actually drive the Freightliner.
- He obtained the Freightliner and trailer at the Love's truck stop in Edinburg, Texas.
- He had not attended a football game or go to his residence, as he'd claimed earlier.
- He knew there was something illegal in the trailer, but was not sure whether it was narcotics or persons.
- GARCIA-Bautista was just alone for the ride and had no knowledge of any illegalities.

Under questioning of USBP agents GARCIA-Bautista made the following statements:

- She was asked by a friend to accompany ROMAN to Houston as company.
- She believed they were driving to Houston to pick up cargo to return to the Weslaco area.
- Prior to that evening she'd never met ROMAN before.
- She had no knowledge there were persons in the trailer, much less illegal aliens.

The check of the Uniform Straight Bill of Lading recovered from the Freightliner denoted the trailer contained 27 pallets of produce containing 1200 items of broccoli and celery. The produce was being shipped to Ken's Produce Inc. located at 3102 Produce Row Houston, Texas 77023-5814 on behalf of State St. Produce located at 19141 Stone Oak Parkway., Suite 301 San Antonio, Texas.

The Bill of Lading showed order # G4568 was picked up on September 4, 2014, by Triple M Transport with a trailer license plate 1799590 (Maine) and bore the signature of a Marcos GARCIA. USBP agents verified with State St. Produce the trailers produce was a legitimate order of theirs, which was being shipped from Bland Distribution Services to Ken's Produce Inc.

Upon Arrival of HSI Special Agents Kevin Burgin and Hector Villarreal, ROMAN and GARCIA-Bautista also agreed to voluntarily speak with agents, without the presence of attorneys.

ROMAN stated to agents, he was instructed to drive to Houston, Texas, where he'd be called and given further instructions as to where to drive the trailer. Before that night he'd never meet GARCIA-Bautista and she was just company, with no knowledge of his activities. He was going to make \$5,000 to deliver the trailer to Houston. He believed he was carrying narcotics, probably marijuana. Claimed he did not place the people in the trailer and it was already loaded and running when he obtained it from an unknown individual.

GARCIA-Bautista stated to agents she'd been asked by a friend to accompany the friends friend to Houston and back, for company to break up the monotony of the long road trip. Before that evening she'd never met ROMAN and wasn't even sure what his name was; only that it began with an "R". GARCIA-Bautista denied any knowledge the trailer contained any persons.

Maria Estela GARCIA-Bautista was released, pending a material witness subpoena being issued. A subsequent cursory search of a black Apple iPhone 4s, possessed by GARCIA-Bautista, which she granted agents consent to search by signing a CF-4602, revealed at least two (2) text messages from GARCIA-Bautista, to an unknown subject, denoting GARCIA-Bautista at knowledge of the illegal aliens in the trailer.

The text messages weren't discovered until hours after GARCIA-Bautista had already been released from custody, due to her cell phone having been being dead when GARCIA-Bautista was encountered and needing to be charged.

Due to be used in the commission of violating Title 8 USC 1324, the trailer was seized by USBP and stored at the Apollo Wrecker Yard located at 630 McBride Lane Corpus Christi, Texas.

On September 16, 2014, acting on information from a confidential source, agents with the Texas Department of Public Safety (DPS) Criminal Investigations Division (CID) Organized Crime (OC) unit, received permission from USBP to conduct a visual non-intrusive inspection of the trailer. Noting discrepancies with the trailer OC agents departed to apply for a search warrant.

On September 17, 2014, subsequent to the execution of a search warrant, approximately 42.52 kilograms (93.74 pounds) of cocaine were discovered concealed in an aftermarket compartment built under the trailer and was accessed by complete removal of the trailers landing gear.

On September 26, 2014, HSI Special Agent Kevin Burgin and USBP TFA Marvin Williams traveled to Bland Distribution Services located at 2243 N. Goolie Road Donna, Texas 78537 and spoke with the assistant general manager Gustavo Serrano. Mr. Serrano provided agents with copies of the Uniform Straight Bill of Lading, which matched with the Uniform Straight Bill of Lading recovered from the tractor trailer driven by Ruben ROMAN.

Agents were also provided with a copy of Bland Distribution Services shipment log book from September 4, 2014. The log denotes order G4568 with a destination of Houston, Texas was picked up at dock 101, by Marcos GARCIA, who arrived at 4:30 PM and departed at 5:49 PM and provided a phone number of 956-463-2598. An indices check of 956-463-2598, shows it registered to Racquel ROMAN, the spouse of Marcos GARCIA and sister of Ruben ROMAN.

A review of law enforcement databases revealed on September 5, 2014, at 12:22 AM, a silver Honda Pilot bearing license (Texas) DDT-8875, registered to Racquel Roman the spouse of Marcos GARCIA, arrived at the USBP Falfurrias checkpoint. A review of the checkpoint cameras systems show a silver Honda Pilot arrived at the primary inspection lane at 12:22 AM. The Honda was occupied by two Latin males; the driver of which appears to be Marcos GARCIA. At 12:23 AM the white Freightliner, registered to Marcos GARCIA and being driven by Ruben ROMAN, arrived at the checkpoint. Subsequent to a K-9 alert 15 illegal aliens were discovered hiding amongst the trailers produce.

A check of the Department of Transportation's (USDOT) databases denotes Triple M Transport's physical address to be 607 W. 10th St. Weslaco, Texas 78596. The registered owner is listed as Marcos GARCIA. An indices check denotes that as of October 29, 2014, Marcos GARCIA resides at 607 W. 10th St. Weslaco, Texas 78596.

On October 31, 2014, at approximately 2340 PM, USBP agents encountered Marcos GARCIA at the USBP Checkpoint south of Falfurrias, Texas and discovered 24 illegal aliens in the refrigerated trailer of the tractor/trailer rig he was operating. Agents arrested Marcos GARCIA for violating Title 8 USC 1324, alien smuggling. GARCIA admitted to transporting illegal aliens contrary to law, GARCIA also admitted to being a VALLUCO criminal gang member.

On Friday January 30, 2015, HSI Special Agents executed a federal search warrant, C-15-101M, on the cellular phone of Maria GARCIA-Bautista. The cellular phone was seized at the time of GARCIA-Bautista's encounter and had been held in the custody of HSI Corpus Christi, Texas.

The cellular phone seized from GARCIA-Bautista utilizes the cellular phone number (956) 572-1138. A review of call logs show a total of 6 calls placed between GARCIA-Bautista and (956) 463-9256, from 11:30 PM, on September 4, 2014, and 12:05 AM, on September 5, 2014. (956) 463-9256, is the cellular phone number for Marcos GARCIA and is the same cellular phone which was in GARCIA's possession when he was arrested on October 31, 2014.

A review of Incoming call logs indicate GARCIA-Bautista received four (4) calls from Marco GARCIA on September 5, 2014, for a total of 2 minutes and 31 seconds.

A review of Outgoing call logs indicate GARCIA-Bautista called Marco GARCIA on September 5, 2014, at approximately 11:52 AM, for a total of 2 minutes and 34 seconds.

A review of Missed calls log indicates Marcos GARCIA called GARCIA-Bautista on September 5, 2014, at approximately 12:00 AM.

On April 29, 2015, HSI Corpus Christi secured an arrest warrant for Maria Estela GARCIA-Bautista.

On May 1, 2015, Maria GARCIA-Bautista was encountered at the Hidalgo, Texas Port of Entry (POE), entering the United States from Reynosa, Tamaulipas, Mexico and arrested.

Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included each and every fact known to me concerning this investigation. I have set forth only those facts that I believe are necessary to establish probable cause to believe that violations of 21 U.S.C. § 841 and 846 exist.

Marcos GARCIA is the registered owner and operator of the tractor-trailer in which Ruben ROMAN, Maria GARCIA-Bautista, fifteen (15) undocumented aliens and 42.52 kilos of cocaine were encountered.

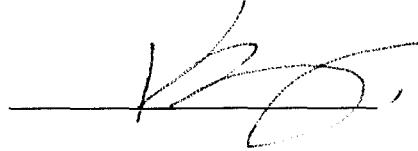
Marcos GARCIA is the individual who picked up and signed for custody of the produce from Bland Distribution Services, in the tractor-trailer in which later Ruben ROMAN, Maria GARCIA-Bautista, fifteen (15) undocumented aliens and 42.52 kilos of cocaine were encountered.

Marcos GARCIA et al

HSI Corpus Christi

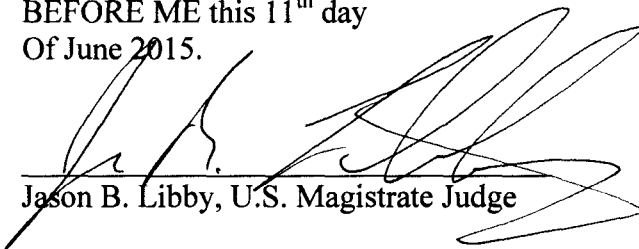
Marcos GARCIA is observed arriving at the USBP Falfurrias checkpoint, in a different vehicle, moments before his tractor-trailer arrives with Ruben ROMAN. Maria GARCIA-Bautista, fifteen (15) undocumented aliens and 42.52 kilos of cocaine.

The facts of the case were presented to the Assistant United States Attorney Chad Cowan, who accepted prosecution of Marco GARCIA, for violation of Title 21 United States Code § 841 and 846.



Kevin Burgin, Special Agent
Homeland Security Investigations

SUBSCRIBED AND SWORN TO
BEFORE ME this 11th day
Of June 2015.


Jason B. Libby, U.S. Magistrate Judge